

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

FALCO ERMERT,

Plaintiff,

v.

MODERNLY INC., et al.,

Defendants.

Case No. 1:23-cv-01037-JLT-SAB

ORDER DIRECTING THE CLERK OF THE
COURT TO TERMINATE MARGARITA
ARAMBULA CANO AND JOSE ANTONIO
CHAVEZ AS PARTIES IN THIS ACTION

(ECF No. 4)

On October 5, 2023, Plaintiff filed a notice of dismissal of Margarita Arambula Cano and Jose Antonio Chavez pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). (ECF No. 4.) The dismissal of these Defendants is without prejudice. (*Id.* at 1.) Rule 41(a) of the Federal Rules of Civil Procedure allows a party to dismiss some or all of the defendants in an action through a Rule 41(a) notice. *Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997); *see also Concha v. London*, 62 F.3d 1493, 1506 (9th Cir. 1995) (“The plaintiff may dismiss either some or all of the defendants—or some or all of his claims—through a Rule 41(a)(1) notice.”); *but see Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 687 (9th Cir. 2005) (The Ninth Circuit has “only extended the rule to allow the dismissal of all claims against one defendant, so that a defendant may be dismissed from the entire action.”). “Filing a notice of voluntary dismissal with the court automatically terminates the action as to the defendants who are the subjects of the notice.” *Concha*, 62 F.3d at 1506.

1 Accordingly, the Clerk of the Court is DIRECTED to terminate Margarita Arambula Cano
2 and Jose Antonio Chavez as defendants in this action.

3
4 IT IS SO ORDERED.

5 Dated: **October 6, 2023**


UNITED STATES MAGISTRATE JUDGE